

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

SHAUN M. FINN,	)	
Petitioner	)	
	)	
v.	)	C.A. NO. 06-30077-MAP
	)	
MICHAEL THOMPSON,	)	
Respondent	)	

MEMORANDUM AND ORDER REGARDING MOTION FOR  
CERTIFICATE OF APPEALABILITY  
(Dkt. No. 33)

September 27, 2007

PONSOR, D.J.

Petitioner, a state prisoner serving a fifteen to sixteen-year sentence for rape of a child with force, sought habeas relief pursuant to 28 U.S.C. § 2254. Respondent's Motion to Dismiss was referred to Chief Magistrate Judge Kenneth P. Neiman for a report and recommendation. On June 6, 2007, Judge Neiman recommended that the Motion to Dismiss be allowed, based on the unavoidable fact that the request for relief violates the one-year limitation period set forth in the Anti-Terrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 2244(d)(1)(A) ("AEDPA"). The court on July 19, 2007 adopted this recommendation and dismissed the petition.

Petitioner has now filed a Motion for a Certificate of Appealability on the ground that he failed to file a timely petition because his lawyer abandoned him without notice. Under AEDPA, these allegations simply are not sufficient to

justify either an evidentiary hearing or substantive consideration of the petition.

Based on this, I have found that Petitioner has not raised issues which are debatable among jurists of reason, in the sense that some other court could resolve the issue in a manner different than I did on July 19, 2007. Despite counsel's strong and earnest efforts, the petition simply does not raise issues which deserve encouragement to proceed further on appeal.

Accordingly, the Motion for Certificate of Appealability is hereby DENIED. This case can now be closed.

It is So Ordered.

/s/ Michael A. Ponsor  
MICHAEL A. PONSOR  
United States District Judge